

1743
1767

Civil Government of Indiana

MARSHALL WILLIAMS

REFERENCE
DO NOT CIRCULATE



Frances M. Beach,

Sept. 1, 1905.

Civil Government

OF THE

State of Indiana

*For Use in the Public Schools
and the Home*

BY MARSHALL WILLIAMS, B.S., LL. B.,
Judge of the City Court, Marion, Indiana.



MARION, IND.:
TEACHERS JOURNAL PRINTING COMPANY
1905.

PREFACE.

INCREASED knowledge of the general plan, and even the details, of the system by which the people of Indiana are governed, can hardly fail to develop in them a wholesome respect for her government and a patriotic pride which will make them better contented and more law-abiding citizens. To place the means of such knowledge at their disposal is the purpose of this little book. It is strictly up to date and discusses the duties of every officer and board concerning which any general interest can be anticipated. No tiresome effort at thoroughness or logical arrangement has attended its preparation, and statements which are true, as far as the average reader is likely to analyze them, have been preferred to others more technically accurate but less easily understood.

The index is believed to be reliable, so that the reader may readily find what the book contains upon any topic, and may safely conclude that it contains nothing on any subject not indexed.

THE AUTHOR.

MARION, IND., June 28, 1905.

CHAPTER I.

Forms of Government

1. **The modern idea of government** involves that of a community of people, permanently occupying a definite geographical area, over whose public affairs, general and local, designated persons exercise recognized authority and power. It was doubtless reached by a somewhat devious evolution from the simpler and more natural conceptions of primitive times, expanding as the changed condition of the community demanded a more systematic control.

Perfection of plan or practical working can hardly be claimed for any system, nor is the government best suited to one condition of men necessarily adapted to others. Governments in the Orient, and possibly nearer home, are administered upon the theory that they exist for the gratification of those who sit in high places, while that of Indiana takes form from the proposition, "that all power is inherent in the people: and that all free governments are, and of right ought to be, founded upon their authority, and instituted for their peace, safety and well being."

2. **By form of government** is meant the system by which the legislative, judicial and executive powers are lodged in, and exercised by, certain persons or classes. They may all be classified as either monarchical, oligarchical or democratic.

3. **Incidents of Monarchy.** In a monarchical form of government the supreme power is vested in one person.

This form is very generally prevalent, the ruler bearing the title of emperor, king, sultan, czar, or, in case of a woman, empress, queen, sultana or czarina.

The manner of succession to a vacant throne is either by hereditary right or by election. The right of an eldest son to follow his deceased father on the throne is widely recognized, but in the absence of a son the laws of different countries make very different provisions. The throne of the Roman empire was elective during part of its history, as was that of the German empire up to a century ago, those having a voice in the selection of the emperor forming, in each case, a sort of oligarchy.

Cases are presented, in the history of many different countries, where a senate or council of the people has interposed to direct the succession in other than the usual hereditary channels, without its being very clear whether the act was revolutionary or the lawful exercise of a reserve power of election.

4. **The monarch's power** is either despotic or limited. A despotism is a monarchy in which the will of the sovereign is the supreme law—a country in which the life, liberty and property of a subject may be taken away at the mere command of the ruler. Such are Russia, China, Turkey, and many others of less extent. A limited monarchy is one in which the power of the monarch is limited by a written constitution, or by customs so well established as to have the force of law.

Should Nicholas II. command his officers to seize Vladimir Korinski, a Russian subject, cast him into a dungeon, behead him and confiscate his lands and goods to

the use of the state, Vladimer's only hope would be that some courtier, wiser or kindlier than his sovereign, might induce the latter to relent; but should Edward VII. issue a like command regarding John Smith of London, no subject would dare obey him. Such arbitrary procedure is contrary to the constitution of England, and the king's command would be no defense in the courts for one who had transgressed her sacred principles.

5. **An oligarchy** is a form of government in which the supreme power is exercised by a few persons or families. Where such persons, or a council selected from their number, conduct affairs without a supreme ruler and independent of the common people, the government is called an aristocracy. In oligarchies, such as developed in some of the ancient Greek states, the members of the oligarchy elected a magistrate, annually or for a term of years, who ruled as a temporary monarch.

6. **A democracy** is a government in which the people, as a whole, legislate and choose executive and judicial officers. It is not necessary that every man, woman, and child composing the state be enfranchised, or, in other words, allowed to vote, so long as those who do enjoy that privilege are sufficiently numerous, and stand upon such rational classification as to be fairly representative of all classes and conditions. Those most generally designated are the male citizens over a certain age, and free from enumerated disqualifications.

A pure democracy is one in which the people themselves determine directly what laws shall be passed and who shall hold the various judicial and executive offices.

Such were some of the ancient Greek states, and the working of the system, as applied to the management of local affairs, may still be witnessed in the town meetings, and district school meetings, of some of the states of the Union.

A representative democracy, or a republic, is a democracy in which the people elect, from their own number, representatives who make and modify the laws, and judicial and executive officers who determine and enforce them. The United States government, that of each separate state, and the governments of our counties and cities, are republican in form.

CHAPTER II.

How We Govern the United States

7. **Divided Sovereignty.** Indiana is not a state in full enjoyment of all sovereign powers. The United States or federal government possesses a sovereignty superior to hers over all those subjects upon which congress is permitted to legislate for the states. This fact is fully recognized by the statute of Indiana which declares the law governing the state of Indiana to be :

First—The constitution of the United States and of this state.

Second—All statutes of the general assembly of the

state in force and not inconsistent with such constitution.

Third—All statutes of the United States in force and relating to subjects over which congress has power to legislate for the states and not inconsistent with the constitution of the United States.

Fourth—The common law of England and statutes of the British parliament made in aid thereof prior to 1607, which are of a general nature, not local to that kingdom, and not inconsistent with the first three specifications given above.

It is not the purpose of this work to discuss the civil government of the United States, but it seems appropriate to refer to a few points at which that government most directly touches the people of Indiana.

8. **What We Vote For.** During "campaign year" at least we are not permitted to forget that the federal government plays an important part in our affairs and that every voter in the state bears a weight of responsibility for the conduct of the federal government. Prosperity and happiness on the one hand and calamity and misery on the other, are held out as being dependent upon the result of the ballot. But what do the voters of Indiana actually vote for on the Tuesday following the first Monday in November in each year of grace, the number of which is exactly divisible by four? So far as the federal government is concerned the answer is, for fifteen electors for president and vice president, for a member of congress from the district in which the voter resides, and for state senators and representatives, who may choose a

United States senator. It may be of interest to trace the silent force of a ballot from the voter's hand until it reaches the candidate for president.

9. **How We Vote.** After marking the ballot so as to indicate his choice of electors, the voter folds it, before leaving the booth, so that no part of the face can be seen when he hands it to the election inspector to be slipped through a slot into the locked ballot box. When the polls close in the evening the election board of each precinct proceed to count the vote cast, and make out a certificate of the number of votes each person received for elector. This certificate is sealed and placed in the hands of one of the election judges, who, on the ensuing Tuesday, delivers it to the clerk of the circuit court of the county. Between twelve and six o'clock of that day, the clerk of the court or, in his absence, his deputy, or the county sheriff, opens the certificates from all the precincts, in the presence of the judges who brought them in, and makes out a certificate of the number of votes each candidate for elector received in the county.

10. **Collecting the Returns.** A marshal, who has been previously appointed by the governor, must then visit the county seat of each county in the congressional district and receive from the clerk this certificate of the vote of the county, and deliver it to the secretary of state between the hours of nine and eleven o'clock A. M. of the fourth Monday in November. Between twelve and six o'clock of the same day, in the presence of the governor and as many of the marshals as are present, the secretary of state opens the certificates from all the different coun-

ties and makes out a list of all the persons voted for for electors, and the number of votes each received.

It is then the duty of the governor to make out and mail to each of the fifteen persons who have received the highest number of votes a certificate of his election to the office of elector. Should there be a tie vote, the electors, or as many of them as are affected by the tie, must be selected by lot from those who received the equal number of votes.

Each voter, as a rule, votes for the entire number of electors nominated by some one of the party organizations, and as a result the fifteen electors are almost invariably of the same political faith. Thus we say that Indiana "went democratic" or "went republican" at the presidential election, according as one or the other of these parties received her electoral vote.

11. **The Electoral College.** The electors meet in the chamber of the house of representatives, in the state house at Indianapolis, on the second Monday of the following January. Should any elector fail to appear by eleven o'clock A. M., his place is filled by a majority vote of those who are present. The governor makes out three lists, properly certified and attested by the state seal, showing the names of the fifteen electors, as they stand after all vacancies are filled, and delivers them to the electors, who proceed to vote by ballot for president, and by a separate ballot for vice president, of the United States. The persons voted for must be at least thirty-five years old, natural born citizens, who have resided for fourteen years in the United States, and no elector is

allowed to vote for persons for president and vice president both of whom are inhabitants of his own state.

12. **Certificate of Result.** After the ballots are taken the electors make out and sign three certificates of the persons voted for and the number of votes each received, and annex to each certificate a copy of the governor's list of electors, which certificates are sealed in separate covers. One is entrusted to some person chosen by the electors, who carries it to the president of the senate; another is mailed to the president of the senate, and the third delivered to the judge of the United States district court for the district in which the electors met.

13. **The Final Count.** On the second Wednesday of February following the presidential election, both houses of congress meet in the hall of the house of representatives. The president of the senate presides, and in the presence of the two houses and of tellers previously appointed, two from the house and two from the senate, opens the certificates of the electoral vote, beginning with Alabama and continuing through all the states in alphabetical order to Wyoming. After reading the certificates from each state he asks if there are any objections, and if any should be offered, in writing, signed by at least one senator and one representative, the matter must be decided by the two houses in the manner provided by the United States statutes. When all objections have been passed and the votes from all the states counted, the president of the senate announces the result.

14. **Who Is Elected.** If any candidate for president has received a majority of all the electoral votes he is

elected, and is finally declared so by the president of the senate, but if no candidate has such a majority, the house of representatives must proceed, immediately, as provided by the twelfth amendment of the constitution, to choose a president from the two or three candidates who received the highest number of electoral votes.

The newspapers, however, are generally able to announce the result the day following the election, and this final count of the electoral vote, three months later, excites but little comment, but the omission of any one of the steps enumerated might open the door to fraud or mistake in a doubtful case.

15. Election of Representatives. One representative to the congress of the United States is elected from each of the thirteen congressional districts into which Indiana is divided, at the November election, every two years. The person chosen must be twenty-five years of age, a citizen of the United States for at least seven years, and a resident of the state from which he is chosen, and, as a matter of fact, always is a resident of the district which elects him.

The clerks certify the vote of the counties to the secretary of the state of Indiana, who opens the certificates in the presence of the governor, and the governor mails a commission to the candidate who has received the most votes in each district.

16. Election of United States Senators. The time and manner of electing United States senators are regulated by statutes of the United States. The General Assembly of Indiana meets in regular session in January of each

year having an odd number. If the terms of either of our United States senators will expire before the next regular session, it is the duty of the Assembly to elect his successor.

On the third Tuesday after the first Monday in January a viva-voce vote is taken in each house, and at twelve o'clock, noon, of the next day, the two houses meet in joint session and the journals of the meetings of the day before are read. If the same person has a majority in both houses he is elected, if not a viva-voce vote is taken in the joint session, and if any person has received a majority of the votes, he is elected. If there is still no election, the two houses must meet at noon each day and take at least one vote for senator until some person receives a majority of all the votes, or until the session expires.

The governor certifies the election of United States senators to the president of the senate, attested by the seal of the state and countersigned by the secretary of state. If the death, resignation, or removal of a senator causes a vacancy between the sessions of the General Assembly, the governor fills it by appointment.

To be eligible to the office of United States senator, one must have reached the age of thirty years, have been a citizen of the United States for nine years, and be an inhabitant of the state from which he is chosen.

CHAPTER III.

How the United States Governs Us

17. **Taxation.** The United States, supporting as it does an army and navy and carrying on a multitude of enterprises, could not exist without a large amount of revenues from some source or other. The taxpayer goes to the treasurer in the court house and pays taxes, twice a year, for the support of the township, county and state governments, but he pays nothing directly for the support of the federal government. He buys postage stamps occasionally, but the money received from that source is used to pay the expenses of the postoffice department. For a time following the Spanish-American war, and at other times previous to it, revenue stamps were required upon deeds, mortgages, notes, bank checks, etc., and upon packages containing drugs, proprietary medicines, matches, and other articles; but this was understood to be a temporary expedient to meet the extraordinary expense of the period, the tariff, and internal revenues from tobacco and alcoholic liquors, being chiefly relied upon to defray the usual expenses of government.

18. **Customs, or tariff duty,** is collected upon goods imported into the United States from foreign countries. For the purpose of collecting such duty the United States is divided into convenient districts, Illinois and Indiana constituting one district, with the port of entry at Chicago.

Should a vessel containing potatoes from Canada arrive at Chicago, it would be the duty of the master of the

vessel to proceed without delay to the custom house or office of the collector of customs for the district and present a written notice of the arrival of the vessel, and a sworn list of the goods she carried and to pay the duty of ten cents per bushel, or whatever duty was fixed, before landing his cargo.

19. **Internal revenue**, in strictness, includes the money received from postage, the sale of public lands, patent office fees, etc., but in common usage it means merely such revenue as is charged upon goods, chiefly tobacco and liquors, manufactured within the United States. The president divides the country into convenient internal revenue districts and places a collector in charge of each, to whom the duty is paid by the brewers, distillers, tobacco manufacturers, and other producers of goods upon which such revenue is charged.

20. **Regulations.** Elaborate provisions are in force concerning the bringing in of foreign goods and the manufacture and handling of tobacco and cigars, but the purpose of all such regulations is to make sure that the importer or manufacturer pays the duty instead of dodging it by one trick or another.

The people of Indiana do not pay a very great amount of these revenues directly to the United States revenue collectors, but do pay a great deal indirectly, without knowing it, in the way of an increase in the price of all goods upon which a tariff or internal revenue is charged.

21. **The Post-office.** When a clause was inserted in the constitution empowering congress "to establish post-offices and post-roads," the foundation was laid for a sys-

tem under which agents of the government now pass the doors of perhaps thirty million people every working day, delivering and receiving all forms of mail matter, and practically every inhabitant of the United States and her dependencies may have post-office privileges by going a very little out of his way. For five cents, paid to the humblest postmaster in Indiana, the United States government receives a letter and carries it safely to Iceland, Spitzbergen, Corea, Hongkong, Siam, Borneo, Australia, Zanzibar, Cape Colony, Arabia, Argentina, or anywhere else on the face of the earth where dwells a colony of civilized people.

22. **Cadets and Recruits.** Dwellers along the seaboard and on the frontier, see more of the army and navy than do we of the peaceful interior, but enough may be seen in our very mist to remind us that the arm of might is not palsied.

Now and then the congressman from each district appoints some promising young man to a cadetship in West Point or Annapolis, to be there educated and trained, at the expense of the government, for service in her land or sea forces, and now and then a trim young officer in faultless uniform opens an army or naval recruiting station, for a week or two, in one of our cities, but these things are transient and easily forgotten.

23. **Care of Soldiers.** More constant reminders of federal power are found in the army post near Indianapolis, and the Soldiers' Home at Marion, as well as in the quarterly visit to every cross-roads, hamlet and village of the ever-welcome pension check.

24. **Fort Benjamin Harrison** is destined to be a post at which a portion of the standing army will be constantly quartered in buildings and grounds belonging to the United States.

25. **The Soldiers' Home**, as the Marion branch of the National Home for Disabled Volunteer Soldiers is commonly called, is an institution of the United States, beautifully situated, in which about two thousand five hundred of her former soldiers and sailors, men disabled from earning their own support, are comfortably cared for.

26. **Pensions** are paid to former soldiers and their widows and minor children, as a testimony of the gratitude of the United States to those who served her in her wars. During the year 1903, \$137,759,653.71 was paid on pensions to 996,545 pensioners.

There is a pension agency at Indianapolis from which the greater part of the pensioners of Indiana, as well as many in other states, receive their payments.

27. **The money of the United States** is our most frequent reminder of her existence. We see her coins and bills oftener than we see her flag. Some sordid souls may even love them better. The states are forbidden to "coin money," "emit bills of credit," or "make anything but gold and silver coin a tender in payment of debts," and at present there is practically nothing in circulation as money except the pennies, nickles, gold and silver coins and certificates and greenback notes of the United States, and the national bank notes authorized and guaranteed by her. If Indiana has her full proportion, there are about seventy-five

millions of dollars of such money in circulation within her borders.

29. **The Congressional Survey.** For straight roads, rectangular counties, townships, and farms, and the possibility of brief and accurate land descriptions, we are indebted to an act of congress, passed under the articles of confederation, soon after the territory northwest of the Ohio became the property of the general government. By the wisdom of that body a "base line" and "principal meridian" were established, with parallels thereto, dividing the entire state into "congressional townships," six miles square, with the exception of "Clark's grant," at Jeffersonville, and the "French grants" around Vincennes. Each of these townships is divided into sections of one square mile, or 640 acres, numbered from one to thirty-six, and sub-divided into fourths, or quarter sections. By further sub-divisions a tract as small as five acres may be described. For example: as the south half of the southeast quarter of the northwest quarter of the southwest quarter of section six, township twenty-four, north, range nine, east. Surveyors, assessors, and those familiar with such descriptions, abbreviate them thus: S. $\frac{1}{2}$, S. E., N. W., S. W., 6, 24 N., 9 E. Roads, and the boundaries of counties, townships and farms, usually follow some one of these lines instead of running haphazard, as they do in Kentucky and the older states.

29. **The Federal Judiciary.** Courts of the United States are open in our midst not only to enforce the federal laws against those who evade them, but to offer redress to

any person deprived of a right which the constitution, laws, or treaties of the United States have guaranteed.

30. **Judicial Circuits.** The United States is divided into nine judicial circuits, of which the states of Indiana, Illinois and Wisconsin constitute the Seventh. One justice of the supreme court is assigned to each circuit, and each has two circuit judges of its own. The circuit court may be held by the justice of the supreme court who is assigned to the circuit, by either of the circuit judges, by the district judge of the district in which the court is held, or by any two of them sitting together. The state comprises a federal judicial district, having a judge of its own. Regular terms of both the circuit and district courts for the district of Indiana are held twice a year at Indianapolis, Evansville, Fort Wayne and Hammond.

31. **The jurisdiction** of federal courts is defined by the constitution and relates to matters affecting the United States as a sovereign government, and matters in which the courts of the states might be inclined to partiality. The jurisdiction of the circuit and district courts is to a considerable extent concurrent, but there are a few classes of cases of which each has exclusive jurisdiction, as, for example, felonies punishable by death, which can be tried only in the circuit court.

Appeals lie from the decisions of these courts to the federal circuit court of appeals or directly to the supreme court of the United States.

32. **Removal of Cases.** A case may be removed, upon the application of the losing party, from a state court to the federal courts, when the state court has decided against the

validity of some treaty, law, or authority of the United States, or against any right, title, privilege or immunity claimed under such treaty, law, or authority; also, when a state court has decided in favor of a state law or state authority, claimed to be contrary to the constitution, laws, or treaties of the United States.

33. **An example** of the benefits of federal authority to one humble citizen is found in the case of Jamison vs. Wimbish, in the 130 Federal Reporter:

Henry Jamison, a respectable colored laborer, was arrested and thrown in jail by two policemen of Macon, Georgia, on the 14th of March, 1904, and the next day, without a jury, written accusation, or any record to show who testified at the trial or what evidence was given, sentenced to wear the striped clothes and labor for seven months in the chain gang of common felons.

He promptly applied to the United States district court for a writ of habeas corpus, and Wimbish, the superintendent of the chain gang, was brought into court to show his authority for holding him. After hearing all the evidence, the court decided that Jamison was deprived of his liberty without due process of law, as required by the fourteenth amendment of the constitution, and ordered that he be discharged. Left to the mercy of the state courts, he would doubtless have undergone the seven months of infamous confinement for his trifling misdemeanor.

CHAPTER IV.**Origin and Principles of the Constitution of Indiana**

34. **Segregation of Indiana**, as a political division, may be traced through a series of acts of congress providing for the government of the territory north-west of the river Ohio. The first of these was the famous "Ordinance of 1787", which constituted all of such territory a single district, provided for a governor and other officers, and closed with six articles of compact with the inhabitants, the last of which prohibited slavery. This district was divided in 1800, the portion west of what is now the state of Ohio being called the Indiana territory. In 1805 Michigan was cut off, but not with her present boundaries, and Illinois was made a separate territory in 1809.

The area of the state as it now exists was first defined by an act, passed April 19, 1816, enabling the inhabitants thereof to form a constitution and state government, and, by accepting certain conditions named in the act, to come into the Union upon equal terms with the original thirteen states.

35. **Constitution of 1816.** Pursuant to the act just mentioned, a convention of representatives elected by the people met at Corydon, then the territorial capital, on Monday, June 10, and proceeded to form what has come to be known as the "Constitution of 1816." That labor being completed, a resolution was passed, signed by Jonathan Jennings, president of the convention, and attested by William Hendricks, secretary, and the convention finally adjourned on the 29th of June 1816.

The resolution accepted the conditions of the enabling act, and ratified the proposed boundaries of the state, and is still in force as a solemn and perpetual compact between the people of Indiana and the government of the United States. This constitution continued to be the supreme law of the state until superseded, November 1, 1851, by the one now in force.

36. **A state constitution** is the voice of the people speaking under some restraint. All sovereign power, which is not delegated to the federal government by the constitution of the United States, or denied to the state by that instrument, is still reposed in the people, and within the limits thus defined they may govern themselves as they please. The form of government they select is outlined in the constitution, and every department of the state government must conform to its provisions. The acts of officers, high or low, if contrary to it, are without authority and absolutely void, and are so regarded by the courts. The people having spoken directly by their constitution, their officers and servants will not be heard to contradict them, even though they attempt it by the solemn formalities of an act of the General Assembly approved by the governor himself. The constitution is the law, anything else to the contrary notwithstanding.

Such is the force of the constitution of Indiana, adopted in 1851, and whenever in the following pages the word "constitution," or its derivatives, "constitutional" and "un-constitutional," are used alone, they may be understood to refer to that particular instrument.

37. **The Revision.** Though the old constitution was

formed with wisdom and foresight, the need of a general revision was generally felt by 1850. Since its adoption the population of the state had increased from about sixty-five thousand to nearly a million; the number of counties from fourteen to ninety-one. Cities had sprung from the forests and swamps, financial difficulties had taught the need of care in chartering banks of issue, and the agitation concerning slavery was waxing warm. On January 18th, of that year, Governor Wright approved the act calling a convention of revision, and the sovereign power of the state, dissolved into a million atoms, was again in the hands of the people, to be recast at their will.

38. **The constitutional convention** was composed of one hundred and fifty delegates, chosen from the various districts in the same manner as senators and members of the house of representatives were then chosen, except that the delegate from the senatorial district of Hamilton, Boone and Tipton counties was chosen by the votes of Hamilton alone, and Martin and Davis counties each chose a delegate, while they were given two members of the house jointly.

This convention opened its session at Indianapolis, October 7, 1850, and completed its work and finally adjourned February 10, 1851. The constitution, as framed, consisted of sixteen articles and a schedule, all of which, with the exception of Article 13, was submitted to the people as a single proposition and adopted by a vote of 109,319 against 26,755 in the negative.

39. **Article 13** was submitted at the same time, but as a distinct proposition, and carried by a majority larger than

that for the rest of the instrument. It provided that no negro or mulatto should be permitted to come into the state, or to settle therein; made it a crime to employ any such who should come in after being thus forbidden, or to give them any encouragement to remain, and rendered all contracts with them void.

The change of sentiment and the amendments to the federal constitution brought about by the civil war, left this article a dead letter, but it kept its place in the constitution till March 14, 1881, when it was stricken out entirely and a new Article 13, regulating the extent to which municipal corporations may go in debt, was substituted.

40. **Other amendments**, made at the same time, struck out the word "white" before the word "male" where it was used to describe the class of persons allowed to vote, and upon whom the legislative apportionment is based, and also changed the time of holding general elections from the second Tuesday in October to the Tuesday after the first Monday in November; and Article 4 was so changed as to permit the adjustment of fees and salaries according to the work required of the officer. Article 10 was amended in 1873 by the addition of section 7, which forbids the state to redeem the Wabash and Erie Canal stock. With these exceptions the constitution still remains as originally adopted.

41. **Bill of Rights.** In launching a form of government in which the will of the majority was to be the ruling force, the people of Indiana, for themselves and their posterity, took the precaution to place certain of their most cherished rights, privileges and immunities forever beyond the reach

of any majority which might seek to deny them to one who stood in the minority or even stood alone.

The first thirty-seven sections of the constitution, in which this purpose is effectuated, are commonly referred to as the "Bill of Rights." The principles there asserted and the immunities guaranteed, are chiefly those made familiar by the declaration of independence and the federal constitution, and require but little discussion. The right to hold what religious opinions we will, to worship God according to the dictates of our own consciences or to worship not at all, to either swear or affirm when we take the witness stand, to speak our minds upon all public questions, and to fear no evil so long as we speak the truth; these rights are so frequently exercised among us that we find it hard to conceive of a state of society in which they do not exist.

The danger of abuse on the part of officers, of the privilege of seizing and holding persons for investigation, and of searching their houses and effects, for the purpose of recovering stolen property, or securing evidence of the commission of crime, or upon any other pretext, is fully guarded against, though search is permitted under proper regulations. The courts are required to be open to every man for redress of injury to his person, his property or his reputation.

42. **Persons accused of crime** are guaranteed the privilege of a speedy and public trial, by an impartial jury of the county in which the offense occurred and to have a copy of the accusation against them. Excessive bail, excessive fines, and cruel and unusual punishments are forbidden. No one is to be twice placed in jeopardy for the same of-

fense, or be compelled to testify against himself. Treason is limited to levying war against the state and giving aid and comfort to its enemies, and can only be established by confession in open court or by the testimony of two witnesses to the same overt act. No ex post facto law is to be passed, nor is the privilege of the writ of habeas corpus to be suspended except in case of rebellion or invasion, and then only if the public safety demands it.

43. **The writ of habeas corpus** was one of the safeguards of English liberty and has been guaranteed by the constitutions of the United States and of most of the states. It is a written command, issued by a court of competent jurisdiction to the person detaining another, commanding him to produce the body of the person detained in court, and to show cause for detaining him. Every person restrained of his liberty, under any pretense whatever, may have the benefit of the writ. The court or judge issuing the writ hears the evidence, and if no legal cause be shown for a further detention of the person, orders his discharge.

The writ furnishes a speedy remedy where one is denied the privilege of giving bail, where excessive bail is required, when one is imprisoned awaiting trial and his trial unreasonably delayed, where he is imprisoned under color of legal proceedings which are absolutely void, and when a child or insane person is unlawfully detained from its parent or guardian.

44. **Other prohibitions** are given against slavery, against requiring one's particular service or taking his property by law without just compensation, against granting privileges to one person which are not granted on the same terms to

all, against imprisonment for debt, quartering soldiers upon the people, suspending the operation of the laws without the consent of the General Assembly, and against the granting of titles of nobility. Following the bill of rights in the constitution, is an outline of each of the departments of the state government, but the provisions relating to them may be conveniently examined in connection with the discussion of such departments.

CHAPTER V.

The General Assembly

45. **Distribution of Powers.** The powers of the government are divided, by the constitution, into three separate departments, the legislative, the executive (including the administrative), and the judicial.

46. **The legislative power** is vested in the General Assembly, commonly called the "legislature", which meets in regular session at Indianapolis, on Thursday following the first Monday in January of each year with an odd number. It is composed of two houses, or bodies of men, called the senate and house of representatives. Each house has a separate chamber in which to meet and a separate organization, and each makes rules for the government of its own proceedings. Regular sessions can not continue longer than sixty-one days, but the governor may, by proc-

lamation, whenever in his opinion the public welfare demands it, convene the General Assembly in extraordinary session, which may continue for not more than forty days.

47. **Legislative Apportionment.** The constitution requires an enumeration of all the male inhabitants of the state, over the age of twenty-one years, to be made every six years, and at the session of the General Assembly following such enumeration that body is required to fix the number of senators and representatives, and apportion them among the several counties according to the number of such male inhabitants. There have been nine regular apportionments, the first in 1855 and the last in 1903. The supreme court declared that of 1903 unconstitutional and a new one was made in 1905, which is now in force. The number of senators has always been fixed at fifty and the number of representatives at one hundred, the greatest number allowed by the constitution.

48. **Districts,** whether senatorial or representative, if they comprise more than one county, must consist of contiguous or adjoining counties. No county is allowed to be divided for the purpose of senatorial apportionment, and, though there is no constitutional prohibition, it is not considered expedient to do so in the apportionment of representatives. A basis of apportionment is readily obtained by dividing the number of voters by the number of senators and representatives. Supposing the enumeration to have shown 700,000 male residents over twenty-one years of age, the basis would be 7,000 for a representative and 14,000 for a senator. To group the counties of the state into fifty senatorial, or one hundred representative districts,

composed of contiguous counties but without dividing a county or doing violence to the ratio is a rather complicated problem. The method resorted to is to give the more populous counties as many representatives and senators as they are entitled to, to group the less populous counties into districts having as near the population required for one senator or representative as is practicable, and then to group the contiguous counties having an excess still unprovided for into districts so that the total excess of the district may approximate the basis as nearly as possible.

For example: The apportionment of 1897 gave Allen county alone one senator, and there still being an excess of population in Allen, while Adams had not enough to give her a senator, Adams and Allen were made a district with one senator. After making Grant county a district with two representatives and Howard, Miami, Wabash and Huntington each a district with one representative, there remained an excess of population in each of the five counties and they were grouped together into a district and given an additional representative.

49. **Qualification and Term.** The qualifications for senators and representatives are that they must be citizens of the United States, who have resided in the state for two years just previous to the time of their election, and in the county or district from which they are chosen for one year. Senators must be at least twenty-five and representatives twenty-one years of age.

The term of office of senator is four years, the whole senate being so divided that the terms of half the senators expire every two years. Representatives are elected for a

term of two years, and the terms of both begin on the day following the election.

53. **Subordinate employes**, such as doorkeepers, secretaries, clerks, pages and messengers, to the number of several dozen, are required to preserve order, keep the records and documents, carry messages, handle mails, and other like duties, while the sessions continue.

53. **The first work** of each house is to perfect its organization. For this purpose the lieutenant governor, if present, and in his absence the auditor of state, and in the absence of both of them, a judge of the supreme court, presides. In the house the secretary of state, or in his absence a judge of the supreme court, presides. It is the duty of the auditor of state in the senate and the secretary of state in the house to have present some judge of a court of record, who administers the oath of office to the members.

A majority of all the members of the senate or house is required to elect an officer, the vote being taken by each member announcing, as the roll is called, the name of the person for whom he votes.

54. **A journal** is required by statute to be kept in each house, in which the proceedings of the body are recorded, and at the end of the session they are edited and published by the state. These journals are the official minutes of the session and are referred to by the courts when it is necessary to determine what action was taken regarding any measure.

55. **The Governor's Message.** Before taking up any business other than that of organization, the houses meet

in joint session and the governor reads to them a formal address, in which he discusses the condition of the state in general, and recommends such action as he deems necessary regarding her affairs. If later in the session he considers other messages advisable he is privileged to communicate them.

56. **Acts and resolutions** are the two forms in which the will of the general assembly is usually expressed. An act, when approved by the governor or passed over his veto, becomes a statute or law of the state. A resolution is an expression of the legislative will not having the form or force of law, and need not be submitted to the governor at all.

57. **A bill, or bill for an act**, as it is sometimes called, is the copy of a proposed law, presented to the General Assembly for its consideration. Any senator or representative may introduce any bill he chooses in the house of which he is a member, excepting that measures for raising revenue must originate in the house. A bill, when first introduced, receives a number, by which it is known throughout its course in both houses, and even in the governor's hands, if it gets that far. Thus, "Senate Bill No. 307" of the session of 1903 was a weighty measure for changing the name of "Limestone" town to "Sanders."

58. **Formal Parts.** The title is an important part of a bill, since no act can embrace more than one subject and matters properly connected therewith, and that subject must be expressed in the title or the act will be unconstitutional and void.

59. **The Enacting Clause.** The constitution provides

that the style of every law shall be, "Be it enacted by the General Assembly of the State of Indiana," and those words appear usually in italics, at the beginning of section one of every act.

60. **A repealing clause**, couched in general terms, repealing all laws in conflict with the act of which it is a part, is frequently inserted. Just what force it has is uncertain, since the latest act of the legislative body always, by implication, repeals all former laws necessarily conflicting with it.

61. **The emergency clause** is also frequently employed, and has the effect of putting the act in operation from the moment it is signed by the governor or passed over his veto.

62. **Three readings** of every bill, on three different days, are required before it is passed, unless, in case of emergency, that formality is dispensed with by a yea and nay vote. Every bill must be read in full at the time of its final passage. These requirements are made to prevent the passage of bills without their contents being fully known to the members and without due consideration.

63. **The course of a bill**, from its introduction to its final approval by the governor, is extremely perilous. It is first referred to the standing committee to which, from a reading of the title, it seems to belong. This committee may report favorably or unfavorably, may recommend amendments and the passage after amendment or, the course most fatal of all to prospective laws, it may not report at all. If it gets out of one committee it is still likely to get into another, and it is subject to amendment at any

time, and may be so changed that its author could not recognize it. Should it finally pass the third reading in the house where first introduced it is sent to the other house to be confronted by the same dangers. If it reaches a form in which both houses pass it, it is sent down to the governor, who may approve it by affixing his signature, or allow it to become a law by failing to return it, within three working days, to the house where it originated. If he is unwilling for it to become a law, he "vetoes" or returns it, within the time mentioned, with a written statement of his objections to its provisions. If, after hearing these objections, a majority in each house still vote for the bill, it is passed over the veto and becomes a law. In order that the governor may have time to consider all bills presented for his signature the constitution forbids any to be presented to him for two days before the final adjournment of the session.

64. **Printing of Bills.** Before being passed each bill is printed, so that members of the General Assembly and other interested persons may know its provisions. In this printed form it is known as the "engrossed" bill. It is printed again in the form in which it is finally passed and is then known as the "enrolled" bill. The acts of the session, as printed and distributed by the secretary of state, are copied from the enrolled bills on file in his office.

65. **The yeas and nays** are taken upon the passage of every bill, and are afterward published in the journal of the house in which the vote was taken, so that the people of the several districts may know how their representatives voted. This is done by calling the roll, in

alphabetical order, and each member responding "yea" or "nay" when his name is called. The votes are then counted, and if a measure has received fifty-one votes in the house, or twenty-six in the senate, it has passed. If it has received a majority of the votes cast, but less than the required majority, it is voted upon at some time when more members are present.

66. **Giving Publicity to Laws.** The acts and resolutions of each session together with certain financial statements, are compiled into a volume by the secretary of state and distributed to the various state officers, and a number of copies sent to the clerk of the circuit court in each county for distribution to attorneys and local officials. The clerk at once receipts for them to the secretary of state, as evidence that the acts have been distributed, and the governor's proclamation issued after the receipts from the clerks of all the counties have been returned, puts in force all the acts which were not already in force by virtue of emergency clauses.

67. **A copy** of one of the shorter acts of the session of 1903 is as follows:

"CHAPTER CXIII.

AN ACT to fix the salary of the Adjutant-General, and repealing all laws in conflict therewith, and declaring an emergency.

(H. B. 338. Approved March 7, 1903.)

Section 1. Be it enacted by the General Assembly of the State of Indiana, That the salary of the Adjutant-General shall be twenty-two hundred and fifty dollars (\$2,250) per year: Provided, That no fee shall be charged

or received by said Adjutant-General for any services in furnishing or giving any honorably discharged soldier or soldier's widow a certificate or copy of any paper or record on file in said office pertaining to the military record of said soldier.

Section 2. All laws or parts of laws in conflict herewith are hereby repealed.

Section 3. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage."

This act, it will be noticed, contains a proviso, a repealing, and an emergency clause, as well as the indispensable title, enacting clause and body. In addition to these formal parts, an act sometimes has a preamble reciting the conditions upon which it is based, or other reasons for its enactment. The preamble of a recent act appropriating money for purpose readily inferred therefrom, is as follows:

"Whereas, The tomb of pioneer heroes massacred at the 'Pigeon Roost Defeat' is without a monument; therefore", and then follows the enacting clause. The preamble of an act concerning the marking of positions held by Indiana troops at the battle of Shiloh is nearly twice as long as the act itself.

CHAPTER VI.

The Governor

68. The executive power of the state is vested in a governor, who is elected by the voters at the same time

presidential electors are chosen. He is elected for a term of four years, beginning on the second Monday of January next after his election, and can not be re-elected till the end of eight years. No governor has ever been elected to a second term under the present constitution, though Joseph A. Wright was re-elected while serving out a term to which he was elected under the old constitution, and both Oliver P. Morton and Conrad Baker were elected while lieutenant governors acting as governor.

69. **The returns of the vote** from each of the ninety-two counties of the state are certified to the speaker of the house of representatives. There is no speaker of the house till that body is organized on the Thursday before the term of the new governor is to begin on Monday, so the new speaker takes an early opportunity to open the certificates. This must be done in the presence of the senate and house, setting in joint session. When the vote has been canvassed the person who has received the most votes is declared elected, whether he has a majority or only a plurality. Should two or more candidates have the same, and the highest number of votes, the General Assembly decides which shall be governor.

70. **The qualifications** for governor are that the person must have been a citizen of the United States for five years and a resident of Indiana for the same length of time just prior to his election and must be at least thirty years of age.

71. **The lieutenant governor**, who acts as governor in case of the death, resignation, removal or disability of the latter, is elected in the same way and must possess the

same qualifications as the governor. In case there should be neither a governor nor lieutenant governor able to serve, the statutes provide that the president of the senate shall discharge the duties of governor. Should such an emergency arise when there was no president of the senate, the secretary of state is authorized to convene the senate for the purpose of electing one. No one but a senator can be elected president of the senate. A lieutenant governor or president of the senate acts as governor and may exercise all the authority pertaining to that office as fully as one regularly elected, but he never actually becomes governor, and should the governor, instead of having been removed by death, resignation, or otherwise, be merely under some disability, such perhaps as insanity, he might resume his duties when his disability was removed.

72. **The duties of the governor** are numerous, and some of them of the highest importance. The duty of taking care that the laws are faithfully executed, to which he is admonished, becomes a grave responsibility in times of trouble. Mobs, riots, insurrections, or other menaces to peace and security demand his prompt attention, and when local authorities fail, he becomes the safeguard of law and order.

73. **Power as well as authority** being necessary to one who stands at the head of a great state, the constitution designates the governor as commander-in-chief of her military and naval forces. The naval forces have never been organized, but the governors have frequently found it necessary to call out the militia to execute the laws, suppress

disorders in the nature of insurrection, and once to repel the Morgan invasion.

74. **The Pardoning Power.** When one has been convicted of any crime other than treason and fined or sentenced to imprisonment or death, the governor may either commute the sentence or reprieve or pardon the person convicted. A reprieve simply delays the time of carrying out the sentence. Commutation is the substitution of a lighter penalty than the one assessed. A pardon ends all legal results of the conviction.

The governor may also "parole" a prisoner, or order his release from prison either for a definite time or till his return is ordered. The granting of parole during the good behavior of the person is considered a valuable aid to reformation. When the governor remits a fine or forfeiture, the person must still pay the costs of the case in which it was incurred.

In cases of impeachment, the governor has no power to intercede, and he can only reprieve a sentence for treason till the General Assembly meets.

75. **A board of pardons** has been created to examine all applications and make recommendations to the governor, but their decision is only advisory, and he may do as he pleases.

76. **Vacancies in Office.** The governor is authorized to fill, by appointment, any vacancy which may occur while the General Assembly is not in session, in any office the appointment to which is lodged in that body, also any vacancy which may occur in any state office or the office of judge of any court. The appointee holds such office till

his successor is named by the General Assembly or elected at the next general election and duly qualified.

77. **Vacancies in the General Assembly**, however, can not be filled by the governor. He must issue his writ for a special election in the district from which the vacancy occurred and allow the people to choose a successor.

78. **Some miscellaneous provisions** as to the governor, contained in the constitution, are: that contested elections to that office or the office of lieutenant governor shall be determined by the General Assembly, that neither of such officers shall be eligible to any other office during the term for which he was elected; that he shall, from time to time, give the General Assembly information as to the condition of the state, and recommend such measures as he deems expedient, which duty is discharged by his messages; that he shall transact all necessary business with the officers of the state government and may require written information of administrative officers upon subjects relating to their offices; and that he may convene the General Assembly elsewhere than at the capital should disease or a common enemy render it dangerous.

79. **Commissioning Officers.** The statutory duties prescribed for the governor are numerous and varied. Many are mentioned in other connections, but that of issuing commissions may be mentioned at this point.

A commission is a written certificate of an officer's authority to act. If the office is one which the person issuing the commission has power to fill, the commission is an appointment, but if the office is elective, it is only evidence of the election, and can only be issued upon official informa-

tion presented to the officer issuing it. Members of the General Assembly and the governor and lieutenant governor receive no commissions, their acceptance by the General Assembly being sufficiently notorious. All other officers specially designated in the constitution, all those appointed by the governor or the General Assembly, and all judges, are commissioned by the governor under the seal of the state.

80. **Extradition.** When a proper application is made to the governor, showing that some person committed a crime in this state and afterward fled to another, he addresses a letter to the governor of the other state, naming some person as agent of the state of Indiana, and requesting the governor of the other state to cause the accused to be arrested and delivered to such agent, to be returned for trial. When the request comes from some other state to the governor of Indiana, he issues a warrant, which may be placed in the hands of any sheriff or constable, for the arrest of the alleged fugitive. The person arrested under a governor's warrant must be taken before the judge of a circuit or criminal court, who tries the question of whether he is the person named in the request and warrant, and if he finds that he is, orders his delivery to the agent of the other state.

The matter of returning fugitives from one state to another is regulated by statutes of the United States and statutes of this state harmonizing therewith.

81. **Proclamations** of various kinds are issued by the governor, from time to time. Some are required by statute and others are issued pursuant to custom, or merely at

the will of the governor. They relate chiefly to the observance of Thanksgiving, Memorial, Labor, Arbor, and other special days, but are required for the putting in force of the laws, and are authorized in case of the prevalence of infectious diseases among domestic animals in localities outside of the state, for the purpose of preventing animals coming in from such localities.

CHAPTER VII.

Administrative Officers of State

82. **A secretary of state** is provided for by the constitution, who is elected at the general election every two years. He, in common with the governor, auditor, and treasurer of state, must keep his office at the capital. No person is eligible to the office more than four years in any period of six years. His duties are mainly statutory and relate to the keeping of the records of the state and distributing such official information as the state gives out.

83. **Bureaus.** He is required to arrange the work of his office under the bureaus of public affairs, public printing and stationery, corporations and statistics. The public affairs under his charge consist in affixing the seal of the state and attesting the governor's signature to commissions and other documents requiring them; in approving, recording and keeping the bonds of state officers, distributing the copies of the acts of congress furnished to the state, fur-

ishing certified copies of the documents and records of his office, etc.

He has charge of the printing and distributing of the journals, documentary journals and acts of the General Assembly, and of the distribution of the volumes of the supreme and appellate court reports. He furnishes the state officers with such stationery as they need, including of course, printed forms, form books, etc., but in this he has the assistance of the governor and the auditor of state.

Most of the corporations doing business in the state, whether organized in Indiana or elsewhere, are required to file some kind of documentary evidence of the nature of their charters, and their financial responsibility and liability to suit in Indiana courts. The secretary of state receives and keeps on file all such statements, and in some cases, if the statements are unsatisfactory, he may refuse the corporation permission to do business within the state.

While the secretary of state has in his charge a considerable amount of statistical matter, more or less of which is embodied in his annual report to the governor, the bureau of statistics, created in 1897, has charge of the general field of statistical work.

84. **Auditor of State.** The constitutional provisions as to the election, term of office and eligibility of the auditor of state are precisely the same as those of the secretary. In addition to their duties in connection with the organization of the General Assembly, which have already been mentioned, the constitution provides that they, as well as the treasurer of state, shall perform such duties as may be enjoined by law.

85. **The duties of the auditor of state** are prescribed by a number of different statutes and relate to the subjects of keeping the accounts of the state, drawing warrants for the payment of money out of the state treasury, bringing suit, when necessary, for money due the state, and preserving books and records relating to the titles and surveys of lands which the state owns or has owned in the past. These records and surveys are in charge of a clerk, familiar in a general way with their contents, who furnishes information regarding any matter connected with them, to whoever applies, though the law does not require him to do so. This department is sometimes referred to as the "land office".

He is ex-officio a member of the state board of tax commissioners, which holds its meetings in his office, and is charged with numerous duties with regard to corporations, especially banking associations organized under the laws of Indiana. He audits all the accounts between this state and the United States, or between this state and another state, and between the state of Indiana and her counties and other political divisions. He keeps a detailed account of all moneys received by the state and all expenditures, and this task is rendered more difficult by the fact that there are a number of different funds, each of which requires a separate account.

86. **The treasurer of state** is elected at the same time, and is limited to two terms in succession, the same as the secretary and auditor, and his duties are all provided by statute; He is the custodian of the funds of the state, and must keep them securely and account for them as required by law.

87. **Auditor's Drafts and Warrants.** Anyone wishing

to pay money into the state treasury must furnish the auditor a statement of the liability upon which he proposes to pay it, and the auditor must examine the matter carefully, and if he finds the amount a proper one to be received, he prepares a draft which authorizes the treasurer to receive the same and directs to which fund it is to be credited.

88. **The auditor's warrant** is also necessary before the treasurer is allowed to pay out any money. This arrangement enables the auditor to keep an accurate account of all the receipts and expenditures of the state; and the treasurer is required to publish monthly and annually a report of the same matters, so that the auditor of state and the people may know of frauds and mistakes, should any occur.

89. **The Attorney General.** The office of attorney general is statutory, but it is one of the most important not provided for by the constitution. The duties are such as to require great knowledge of the law, and though the people may elect whomever they choose, the attorney general has always been a lawyer. He is chosen at the general election every two years and may be re-elected to any number of successive terms.

90. **His duties** are to prosecute and defend suits by or against the state, where no one else is charged with that duty, and to conduct all criminal cases while in the supreme or appellate court upon appeal, and to furnish a written opinion upon the validity or construction of a law when requested by a state officer or by the General Assembly. The governor may request such an opinion on any question of law in which the state's interests are involved, any other of-

ficer may request it upon any point concerning the duties of his office, and either house may request an opinion as to the constitutionality or validity of any existing or proposed law. He is also required to ascertain what sums of money have come into the hands of state and county officers, or any other person, for unclaimed witness fees, docket fees, fines, forfeitures, estates to which there are no heirs, and from various other sources, and, if necessary, to institute suits and take all necessary legal steps to compel the payment of the same to the officer authorized to receive them.

A report of all moneys collected by the attorney general must be made by him at the close of each fiscal year to the auditor of state. He also makes a report to the governor every two years, stating the business done and the condition of the affairs of his office.

CHAPTER VIII.

The State in School Work

91. **The constitution** makes it the duty of the General Assembly "to provide, by law, for a general and uniform system of common schools, where tuition shall be without charge, and equally open to all", guarantees the perpetual preservation of the school fund, for the purpose for which it was created, and creates the office of superintendent of public instruction.

92. **The state superintendent**, as he is commonly called,

is elected at the general election every two years and may serve continuously, so long as the voters see fit to re-elect him. His duties are to administer the system of public instruction, and exercise a general superintendence over the business relating to the common schools of the state and the state school funds and revenues. He is required to render an opinion in writing upon the administration or construction of the school law whenever any school officer asks for it, and to print and distribute copies of the school law. He saves himself much labor in the first direction by printing, along with the constitutional and statutory provisions, brief statements of the construction put upon them by the supreme and appellate courts, and also of his own and former superintendents' written opinions. He is also a member ex-officio of the Indiana state board of education.

93. A report is required of him to each regular session of the General Assembly, in which he must state the results of his labor, experience and observation upon the operation of the school system, and make known his plans and recommendations for the future. His report also includes a great deal of statistical matter relating to the school fund and revenues, and the condition and progress of educational work throughout the state.

94. The state board of education was created by statute in 1875. It is composed of the governor, the superintendent of public instruction, who is ex officio president, the presidents of the State University, Purdue University, and the State Normal School, the superintendents of common schools of the three largest cities in the state, at present

Indianapolis, Evansville and Fort Wayne, and three members appointed by the governor. The three last mentioned are required, by law, to be citizens of prominence, actively engaged in educational work in the state. One of them must be a county superintendent, and no one can be from the same county as any other member of the board.

95. **The duties** of the board are to exercise a general supervision over the educational system of the state, to issue state teachers' licenses, under the seal of the board, to those who pass the required examination, to furnish lists of questions for the teachers examinations conducted by county superintendents, and to select the text-books used in the common schools. The meetings are held in a room of the state house, upon the call of the state superintendent, but might be held anywhere else in the state that he chose to designate.

96. **The school fund** is a sum of money amounting to more than ten million dollars, held in trust by the state, to be increased but never diminished, and the income forever applied to the support of common schools. It originally came from several different sources.

97. **Congress** saw fit to fortify the future inhabitants of Indiana against oppression by salt monopolies, and by the enabling act of 1816 presented them wild lands to an aggregate of over twenty thousand acres, upon which issued salt springs, with the provision that they should never be sold, or leased for more than ten years at a time. Thousands of acres of other lands, in different parts of the state, mostly swampy in character, had not been purchased of the government up to 1850, and they were given to the

state. With the consent of congress these "saline" and "swamp" lands were afterward sold and the proceeds, together with certain surplus revenues accumulated under the old constitution, the proceeds of a tax upon banks of issue, the estates of persons dying intestate and without heirs, and the fines paid in criminal cases, form the bulk of the state school fund.

To insure an income from this source, the fund is distributed among the several counties and each county required to account for the principal and six per cent. interest. The county auditors may loan out the money upon real estate mortgages, but the county is required to replace any part not paid back by the borrower.

98. **The congressional township fund** owes its origin to the ordinance of 1787, which gave section sixteen of every township of the survey to the future inhabitants of such township for school purposes. These lands, or the proceeds, where they have been sold, are rented or loaned and the income divided among the school corporations comprising the congressional township in proportion to the number of children of school age in each.

99. **Apportionment by Auditor.** The income from the state fund is apportioned to the several counties; each county has a fund of its own, resulting from saloon licenses and special taxation, and each school corporation is entitled to a certain portion of the income from the congressional township fund of the township of which it is a part. All these funds are sacred for the purpose of hiring teachers, and, so far as possible, the county auditor divides them so that each school child may receive the benefit of the

same amount. A school corporation which gets a large sum per capita from the congressional township fund is allowed little or nothing from the other funds, but its full share of the former can in no case be withheld.

100. **Local School Corporations.** The policy has been to divorce the common schools of the state from sectarianism and party politics, and to place their management and funds in independent hands, even the courts having been ignored and the decision of the state superintendent made final on the appeal of school questions.

The school district, once elemental in our system, has long been shorn of its property, vitality and corporate powers, and virtually merged in the township. Voters forget to assemble on the first Saturday in October to elect the school director, and that worthy seeks the trustee's consent before buying a tin cup for the school house well when the old one has rusted out. Each township, city, and incorporated town is a distinct municipal corporation for school purposes, having its separate income and obligations and controlled by its own officers. These corporations receive the income from the various endowments mentioned, but are required to pay it out for the hiring of teachers while raising the funds to build school houses, purchase supplies, and pay all other expenses of the schools by local taxation.

101. **Duties of Officers.** The township trustee is ex-officio sole trustee of the school township. It becomes his duty to provide school buildings, grounds and equipment, furnish fuel, water, lights and janitor service, take charge of all school moneys and strictly account for the same, hire

the teachers, grant and receive transfers, provide for holding commencements and fully direct the affairs of the school corporation.

In cities and towns these duties are performed by a school board consisting of three trustees, one being elected by the town board or common council at its first regular meeting in June each year. When once chosen, however, the school board is as independent of the town board or council as though its members held office through the votes of the people. No school officer is allowed to employ as teacher, or pay any public funds as wages for such service, to any person who has not a valid license to teach in the school for which he is hired, at the commencement of the term of employment.

By a recent provision, an incorporated town having less than fifteen hundred inhabitants and no school indebtedness may abolish its school board and turn its school property over to the township trustee, who afterwards manages the school affairs as though the town were unincorporated.

102. **Compulsory Education.** In order that the public schools may not be deserted by those who need them most, children between the ages of seven and fourteen years are required to attend them, or some private or parochial school, for the full length of the term. The county board of education is made a board of truancy for the purpose of appointing one truant officer for the county, and, if necessary, forming towns and cities having more than five thousand school children into separate truancy districts. When this is done, each district has one or more truancy officers

elected by the school boards of the corporations forming the district.

The duties of a truant officer are to see that the children within his jurisdiction attend school. If they fail to do so, he serves a written notice upon the parents or guardians of any who are habitually tardy or absent, and if they are still not sent he may file affidavits with a justice of the peace and have the parents or guardians arrested and fined.

103. **Three schools are supported** wholly or in part by the state, for the higher education of her young men and women. All of them are co-educational, and no charge is made for tuition to Indiana pupils, though they are required to pay certain fees and charges for the privileges of the institutions. These schools are supported by a special tax of two and three-fourths cents on each one hundred dollars of taxable property in the state, the State University and Purdue each receiving four-elevenths of the proceeds and the State Normal three-elevenths, and each of them has received a large number of specific appropriations from the state as well as other donations.

104. **Indiana State University**, located in the midst of a natural grove at Bloomington, owes its origin to the enabling act of 1816, which reserved a congressional township of land for that purpose, though the institution was not founded till 1820. It has a productive fund of about \$600,600, principally traceable to this endowment. A library of forty thousand volumes is one of its many advantages. The management is entrusted to a board of eight trustees, of whom five are elected by the state board of education and three by the alumni of the school.

105. **Purdue University**, at Lafayette, was founded in 1874, by the help of grants of land from the United States and a donation of money from John Purdue. In addition to these endowments and the tax above mentioned, it has received many donations of mechanical and scientific apparatus, a complete locomotive being given in one case. While many of the branches taught are the same as those taught at the State University and State Normal School, it has a distinct work in the direction of applying science to agriculture, and mechanical and electrical engineering work. The board of trustees consists of nine members, two of whom are nominated by the state board of agriculture, one by the state board of horticulture and six by the governor.

The legislature of 1895 appropriated \$25,000 annually to the institution, to be used in conducting experiments in live stock feeding, crop and soil improvement, testing varieties of corn in different and differently fertilized soils, the investigation of dairy interests and the dissemination of practical knowledge thus obtained.

106. **The Indiana State Normal School**, located at Terre Haute, was founded by an act of the General Assembly, passed in 1865. Its purpose is to train teachers for work in the common schools of the state. The management is in the hands of a board consisting of four trustees, appointed by the governor, and the superintendent of public instruction, who is ex-officio a member.

107. **Blind and deaf-mute children**, who cannot be educated in the common schools, are provided for in separate institutions, both of which are located in the city of Indian-

apolis. The grounds of both have been beautified and buildings erected which furnish homes for the pupils and many of the teachers and others employed about the school. Each is managed by a board of three trustees, appointed by the governor, not more than two of whom can be of the same political party. A superintendent is chosen by them, who has charge of the institution and all persons immediately connected with it. The parents or guardians of children attending these schools are expected to furnish them with clothing and pay their traveling expenses, but if they are not able to do so, the state pays the bill and charges it up to the county from which the child is sent.

A written application for the admission of the child, upon which is the certificate of a justice of the peace showing what county it is sent from, is required before any child can be received.

CHAPTER IX.

Collection and Distribution of Information

108. The state geologist is an officer provided for by an act of the General Assembly, passed in 1889. According to the terms of the act, he is to be elected by the General Assembly, but under the holdings of the supreme court that portion of the act is invalid and the state geologist is now elected at the general election every four years. The statute provides that he shall be a suitable person, skilled in

geology and natural science, but provides no way by which his "skill" is to be determined, so that provision is mere dead letter. He is director of the department of geology and natural resources, which originally consisted of the four divisions of geology and natural science, mines and mining, mineral oils and natural gas, but much of its work has been committed to other officers.

109. **The state geologist** is chief of the division of geology and natural resources as well as director of the department.

His duties are to continue the geological survey of the state, which was begun many years ago but is still incomplete. He takes the state by counties or by districts and examines carefully for mineral, stone, or other valuable natural deposits, and also gives attention to the vegetation and animal life. He makes an annual report to the governor, which is one of the most valuable documents printed by the state.

110. **As curator of the museum** he has charge of the museum located in the state house. This institution contains many specimens of minerals and fossils, and preserved and mounted fishes, reptiles, birds and wild animals, as well as a number of flags, arms, and relics of different kinds, most of which possess historic interest for the people of this state.

111. **Board of Public Printing.** The governor, secretary and auditor of state and reporter of the supreme court are ex-officio commissioners of the public printing, binding and stationery. They let the contract for the work under each of these heads for a period of two years in ad-

vance, to the lowest responsible bidder. The printing includes that of the laws, journals, reports of state officers and boards of the state institutions, and the reports of the Indiana Academy of Science, which, though a private association, has its reports printed at public expense. Under stationery is included legislative bills, commissions, letter-heads, circulars, and blanks of every kind, required by any department, officer or institution of the state. The binding required is chiefly of books and pamphlets of the classes printed by the state.

112. **The state library board** is composed of the same persons as the state board of education, and, in fact, is the same board acting in another capacity. It has charge of the buying of books for the state library, and elects a librarian, for the term of two years, who has charge of the library and matters connected with procuring books therefor.

113. **The library** is situated at the south end of the second floor of the state house, and is required to be kept open from nine o'clock in the morning till four o'clock in the afternoon every day except Sunday and legal holidays. State officers are permitted to remove the books from the library, but not from the state house, and other persons may use them at the tables in the library. Copies of all works printed by the state, except law books, are placed in the library and extra copies furnished the librarian in order that he may exchange them for similar publications of other states. In addition to these, many books are purchased. The character of the library is not popular or literary, but

tends more in the direction of history, political economy and statistics.

114. **The bureau of statistics** was established in 1879. It is composed of a chief, appointed by the governor for a term of two years, and such assistants as the chief may deem necessary. It has quarters in the state house. Its duties are to collect, systematize, tabulate and present to the governor and General Assembly, in annual and biennial reports, information upon the subjects of agriculture, manufacturing, mining, commerce, education, labor, wages, social and sanitary conditions, temperance, penal institutions, and other matters specifically named. In short, it is given authority broad enough to cover practically every kind of statistical matter within the state. It is greatly aided in its labor by statutes requiring assessors to accumulate information while making the assessments, and requiring other officers to furnish such information as the records and papers of the offices afford.

115. **The state library commission** is an institution entirely distinct from the state library board, though the state librarian is ex-officio its chairman. It is composed of three members, chosen by the governor, and has its headquarters in a room in the state house. It is charged with the duty of furnishing lists of books and information as to the cost and organization of libraries, and has the custody and management of the state's traveling libraries. These last are a collection of books purchased by the state, to be loaned, under suitable regulations, to libraries and associations of persons in any part of the state who may desire them.

CHAPTER X.**Public Health and Safety**

116. **The state board of health** was created by statute in 1891, for the general purpose suggested by its name. There are five members of this board, all of whom are chosen for the term of four years. The governor, secretary and auditor of state constitute a board of appointment to appoint two members of the board of health each year with an odd number. The four appointed members elect the fifth, who must be a physician. He is secretary of the board and is known as the "state health officer."

117. **The duties** of this board are to care for the lives and health of the people, to collect statistical information relating to health, births, deaths, and the causes of diseases, especially those of an epidemic and communicable character; to regulate the plumbing, drainage, and water supply of public buildings; to supervise the dumping of polluting material into streams; to make rules and regulations for quarantining infectious diseases, and to superintend the local health boards of the cities and counties.

118. **A new department**, known as the state laboratory of hygiene, was added to the board of health by the legislature of 1905. It is to be located in a room of the state house and presided over by a superintendent and an assistant, appointed by the state board of health. The former is required to be skilled in bacteriology and pathology, and the latter in chemistry, and their tasks are to aid in the enforcement of the health and pure food and drug laws, and to conduct studies in hygiene and preventive medicine.

119. **Local Board of Health.** Boards of county commissioners, town trustees, and the mayor and common council of cities are ex-officio boards of health within their respective jurisdictions, charged with the duty of protecting the public health, removing causes of disease, abating nuisances, taking prompt action to prevent the spread of contagious diseases, and performing such other duties as the state board of health may require of them. Every such board elects a physician, who is required to be a graduate of some reputable medical college, to act as health officer of the board, for the term of four years. All the duties of the board are equally incumbent upon him, and in addition thereto he is required to quarantine and isolate cases of small-pox, diphtheria, membranous croup, scarlet fever, measles, and other communicable diseases at the peril of a fine and even imprisonment. It also falls to his lot to enforce the rules and regulations of the state board of health, which, if made within the scope of the powers and duties of that body, have all the force of laws.

120. **Medicine, Surgery, and Drugs.** In order to protect the people against persons who might attempt surgical operations or prescribe or dispense drugs and medicines without having sufficient skill and knowledge to be entrusted therewith, the practice of these arts is limited to those who have passed certain required examinations and have been duly licensed.

121. **The state board of medical registration** and examination is composed of six members, appointed by the governor for terms of four years each, the terms of only two expiring the same year. No more than three members are

permitted to be of the same political party, and no school or system of medicine can have a majority of the board, though all members are required to be reputable physicians who have graduated from medical colleges of good repute.

122. **The duties** of this board are to aid in the enforcement of the law against the practice of medicine, surgery, or obstetrics without license, and to examine applicants and issue certificates to such as are qualified to practice.

The certificate of the board is filed with the clerk of the county in which the applicant resides, and the clerk issues the license to practice.

123. **Dentists' License.** No one is permitted to practice dentistry without a license from the state board of dental examiners. This board consists of five practicing dentists, appointed for two years' terms, one by the governor, one by the state board of health, and three by the Indiana state dental association.

124. **The Indiana board of pharmacy**, composed of five pharmacists, is charged with the duty of watching over the condition of pharmacy throughout the state, and of issuing certificates as registered pharmacists, or assistant pharmacists, to competent applicants, and it is unlawful for any person to conduct a store for the sale of poisonous drugs, or to sell at retail any such drug, or to compound for sale any physician's prescription, without a pharmacist or assistant in charge.

125. **Nurses.** A board of five experienced nurses is appointed by the governor to have charge of the examination and registration of nurses. Licenses are issued to nurses found to be competent, and it is made a misde-

meanor for any person to practice or advertise, or assume the title of "trained" or "graduated" nurse, without having a license from the board. The law does not interfere with those who nurse the sick, either gratuitously or for hire, so long as they avoid the pretensions mentioned.

126. **State Board of Embalmers.** The proper embalming of dead bodies being supposed to prevent the spread of infectious diseases, the governor is empowered to appoint a board of five practical embalmers to examine persons wishing to engage in the business, and license such as are found to possess the necessary qualifications. It is made a misdemeanor to practice, or hold one's self out as an embalmer, without having the proper license, and the board is enjoined to prosecute all such offenders.

127. **Factory Inspection.** For the purpose of enforcing the law relating to child labor, as well as to see that the safety of all persons working in factories is properly provided for, a department of inspection is created by statute. The chief inspector is appointed by the governor, by and with the advice and consent of the senate, for a term of four years. His duties are to inspect factories and like establishments, all over the state, and see that dangerous belts, shafts and other machinery are properly guarded, and due precaution taken for the safety of the employes; to see that children and women are not employed contrary to law, and to inspect steam boilers and arrangements for fire protection and fire escapes. He is authorized to order such changes in the buildings and machinery of manufacturing and mercantile plants as will make them safe and

sanitary, and factory owners and others who disregard the orders, are liable to a penalty.

128. **Inspection of Mines.** The coal mines of Indiana, employing thousands of persons, are dangerous to life and health unless operated with extreme care. Caving, noxious gases, flooding, fires, falling down shafts, the breaking of hoisting machinery, and other grave perils are to be guarded against. The duties of the inspector of mines are to see that the numerous statutes relating to the operation of mines and the safety of the miners are complied with, and to issue certificates of competency to mine and fire bosses and hoisting engineers. The person appointed to this office by the state geologist must be a practical miner of at least ten years' experience, and must pass an examination as to his qualifications. His term of office is two years, and he may appoint two assistants, who are also examined as to their knowledge of mining and other qualifications.

129. **The natural gas supervisor** is appointed by the state geologist for a term of four years and is subject to the directions of that officer, who may remove him for violation or neglect of duty. He is charged with the enforcement of all the laws of the state relating to the production and transportation of natural gas, and the plugging of abandoned gas and oil wells. He is required to devote his entire time to these duties, and to inspect all natural gas pipe-lines in the state once a year, to see that they are safe and secure, and that gas is not carried under a heavier pressure than the law allows.

130. **Inspection of Oils.** The inflammable and explosive

sive character of many of the oils and oily substances manufactured from petroleum has received legislative attention. All such products must be inspected by the state supervisor of oil inspection, or his assistants, before being offered for sale in Indiana, and only those which are found sufficiently safe and stable can be placed upon the market. The supervisor is appointed by the governor for a term of four years.

CHAPTER XL.

Care of the Insane

131. **Hospitals for the insane** to the number of four have been established and a fifth provided for by the state. The Central hospital is at Indianapolis, the Northern at Logansport, the Eastern at Richmond, the Southern at Evansville, and the location of the new Southeastern yet to be selected. Each of these institutions is under the control of a board of three trustees, appointed by the governor, not more than two of whom shall be of the same political party. As is usual with such boards, the members are appointed for three years, and the term of one member expires each year, so that there are always two experienced trustees.

132. **Insanity Inquest.** Insane persons residing in any county of the state are entitled to maintenance and medical treatment in some one of these hospitals where there is room for them, but they can not be received till the steps

provided by law have been taken. Some respectable citizen of the county where the person supposed to be insane resides must answer, in writing and under oath, the questions asked in a printed form provided by the state, and must file this statement with a justice of the peace. The justice then subpoenas the witnesses named in the statement, the physician of the person, any other witnesses he may think proper and two physicians who are disinterested in the case and competent to act as medical examiners. The witnesses, and the person himself if practicable, are then examined under oath regarding the case.

133. **Application for Admission.** If the justice finds the person insane, he files with the clerk of the circuit court the statement of the citizen, a statement of the person's physician as to the history of the case and the treatment given, a certificate by the two medical examiners and his own finding. The clerk sends copies of all these to the superintendent of the proper hospital, who determines from their contents whether the person should be received.

134. **Preference is given,** when the hospital is full, to recent cases and those considered curable, but chronic and incurable cases are taken when possible, the counties being treated as near equally as possible according to their population. Cases found to be incurable may be returned to the counties from which they came, but this is not often done.

135. **A school for feeble-minded youth** is maintained by the state near Fort Wayne. The governor appoints a board of trustees, composed of one woman and one demo-

cratic and one republican voter, who manage the institution and appoint the superintendent.

136. **The purpose** of the school is to support, and as far as possible train and educate, feeble-minded, idiotic, epileptic and paralytic children under eighteen years of age, and feeble-minded women under forty-five. Parents or others placing children in this school may pay for their support if able, but if not the board of commissioners of the county where the child resides may approve the application for the child's support at public expense. Women over sixteen years old can only be received upon the order of the judge of the circuit court.

137. **Indiana Village for Epileptics.** An act approved March 6, 1905, provides for the establishment of an epileptic village, upon lands not less than a thousand acres in extent, to be selected and purchased by three persons named by the governor. A continuing board of three trustees, to which one member is appointed each year by the governor, is then to have charge of the building, equipment and management of the institution and appoint the superintendent.

When the governor shall have issued his proclamation of the fact that the buildings are ready for the reception of inmates, epileptic persons are to be received in the following order: from poor asylums, jails, orphans' homes and other county institutions; then from dependent and indigent classes not in such institutions, and if room yet remains such persons not hopelessly or violently insane as the superintendents of other state hospitals and institutions may recommend for transfer. No one can be received except upon commitment by a circuit judge, based on the

recommendation of two medical examiners appointed by the judge. The expenses of inmates of the village are provided for in much the same way as those of other insane persons in state institutions.

CHAPTER XII.

Marks of Patriotism and Gratitude

138. The state house at Indianapolis, while primarily an institution of utility, is also an expression of state patriotism and pride. It occupies a tract of land about ten acres in extent and is sufficiently commodious for the state offices, libraries, courts and museum and the chambers and committee rooms of the General Assembly.

The enabling act gave to the new state four sections of land for a capital site, and in 1820 a committee selected the sections cornering at what is now "Monument Place", in Indianapolis. The white settlements were then confined to the Ohio, Wabash, St. Joseph and White Water valleys, and Connersville claims to have been the nearest of any at the time the capital city was located. Members of the legislature during the years following 1825, were forced to make laborious journeys through the woods to reach the new capital. The present state house, erected at a cost of nearly two million dollars, has been occupied since 1886.

The capital building and public property therein are in charge of a custodian elected by the General Assembly for

he term of four years. The janitors and laborers are hired by him, but the engineer in charge of the heating and elevator machinery and plumbing is appointed by the governor.

139. **The Indiana State Soldiers' Home.** Prior to 1895 the state received and supported destitute soldiers and soldiers' widows at the Knightstown home, but in that year arrangements were made by which the Grand Army of the Republic transferred 247 acres of land near the city of Lafayette, together with \$5,000 in money, to the state, and the state has established a soldiers' home thereon. A board of trustees consisting of five honorably discharged Union soldiers, appointed by the governor, has charge of the home and elects the commandant and adjutant.

Disabled and destitute soldiers, sailors and marines, their wives, and widows over forty-five years old, and army nurses, are entitled to membership in this home, provided they have resided in the state one year immediately before the application. When more apply than can be accommodated, preference is given to soldiers who served in Indiana regiments.

Some counties have erected cottages on the grounds of this home and others may yet do so.

140. **The soldiers' and sailors' orphans' home,** located at Knightstown, receives its support from the state and occasional private donations. Three trustees, appointed by the governor, manage its affairs and elect the superintendent. Pupils are admitted upon a written application properly verified, and as is true in most cases where information is required for an official or public purpose, printed blanks

are furnished upon request, to be filled out according to directions.

Orphan children destitute of support and residing in Indiana, whose deceased fathers were soldiers or sailors in the United States in the civil war, the war with Spain, or that in the Philippines, are first received. If enough of this class do not apply to fill the home then those whose mothers are living may be received, and if there is still room, children of disabled soldiers or sailors of such wars, living in this state, or in national soldiers' homes, to which they went from this state, may be admitted. The inmates are educated in the common school branches and taught some useful trade, and are usually discharged from the home to support themselves by the time they are sixteen years of age.

141. **The soldiers' and sailors' monument**, towering in beauty and majesty above the capital city, was erected by the state in memory of more than 200,000 of her sons who served in the army and navy of the United States prior to the close of the civil war. The circular space about it was the center of the city, as first laid out, and has been the property of the state since 1820.

142. **Tippecanoe Battle Ground.** The site upon which General William Henry Harrison defeated the forces of the Indian confederacy on November 7, 1811, is owned by the state, and the constitution makes it the duty of the General Assembly to provide for its permanent inclosure and preservation. Few marks of the battle can now be seen, as the engagement was fought without fortifications or artillery, but an iron fence surrounds the fields.

143. **Other monuments** have been erected by the state to mark the positions held by Indiana soldiers in the nation's battles, notably those of Shiloh, Vicksburg, and Chickamauga. The session of 1903 made an appropriation for the erection of a monument over the graves of the twenty-four victims of the Indian massacre which occurred at Pigeon Roost, in what is now Scott county, September 30, 1812, and that of 1905 appropriated thirty-five thousand dollars for "an heroic statue of enduring material to perpetuate the name, memory and services of Oliver Perry Morton, the great war governor of Indiana."

144. **Battle Flags.** The colors carried by bodies of Indiana troops, such as the flags of the regiments, many of them weather-beaten and battle-scarred, are preserved in the geological museum. Along with these are some Confederate flags captured in battle by Indiana soldiers, but by no act as noble as the sentiment which preserves them, the flag of "Terry's Texas Rangers" was returned by the state in 1899 to an organization of the veterans of that command. A receipt given for this emblem by its former defenders occupies its old place in the museum.

145. **The portraits of the governors** of Indiana have been placed upon the walls of the state library and furnish an interesting and impressive adornment to that repository of the writings of political sages.

CHAPTER XIII.

Supervision of Various Industries.

The labor commission, created in 1899, has for its

object the friendly settlement of strikes, lockouts, boycott and other labor controversies. The commissioners are two in number and are appointed by the governor for terms of four years. They must be voters over forty years of age and of different political parties.

It is their duty to proceed to any place where they learn of the existence of labor troubles and to confer with both parties and try to bring about an amicable agreement, and failing in this, an agreement to arbitrate the points in dispute.

The circuit judge of the county in which the trouble arises, together with the two commissioners, is constituted a board of arbitration to which the matters may be submitted, but the parties may agree upon any other persons. The findings of such a board have somewhat the same force as the judgment of a court.

147. **State Chemist.** In order to protect the users of commercial fertilizers from dealers in worthless or inferior compounds, a statement is required to be filed with the state chemist describing each particular brand to be offered for sale in the state, and making a guarantee as to the minimum per centages of nitrogen, potassium oxide and phosphoric acid it shall contain. The state chemist then furnishes the dealer with printed labels giving the description and guarantee, and it is made a criminal offense to deal in any fertilizer not bearing such label, or which is less than the guaranteed amount of beneficial ingredients. The professor of agricultural chemistry at Purdue University is the state chemist for this purpose.

148. **The state entomologist** is appointed by

ernor for a four years' term. It is his duty to inspect, at least once a year, all nurseries in the state where trees, shrubs, vines, plants, or any kind of nursery stock is grown for sale. If he finds the stock free from San Jose scale and other destructively injurious insect and fungus enemies, he furnishes a certificate of the fact to the nurseryman and to the president of the state horticultural society. It is made criminal for the nurseryman to furnish his customers with any kind of stock without such certificate.

149. **The state board of forestry** is charged with the duty of collecting, digesting and classifying information respecting forests and timber lands and forest preservation and timber culture, and with the establishment and management of the state forest reserves. It is authorized by the General Assembly to purchase two thousand acres of land for the purpose of a reserve and state nursery and the establishment of a laboratory of forestry demonstration. An annual report to the governor is required. The board is composed of five members, appointed by the governor, two from the lumber dealers' associations, one from the faculty of Purdue, one practical farmer, and one who is skilled in the theory and art of forest preservation and timber culture, and posted in the topography of the state. The last is secretary of the board, state forester and superintendent of forest reserves.

150. **A state veterinarian** is provided for by an act of 1901, whose duty it is to protect the health of the domestic animals of the state, to investigate the cause and nature and discover the best means of treating and preventing dangerous, contagious and infectious diseases among them,

and to establish and enforce quarantine regulations where necessary to prevent the introduction and spread of such diseases within the state.

He is also authorized to investigate the sanitary condition of the pens and yards of public live-stock markets and the milk supply of cities, towns and villages.

He is appointed by the governor, for the term of four years, and is required to be a competent veterinarian of large experience, and a graduate of some reputable veterinarian college in the United States, Canada or England.

151. **Veterinary Surgery.** The practice of veterinary surgery and medicine is limited to persons holding a license from the state board of veterinary medical examiners. This board is composed of four practicing veterinarians, appointed by the governor, for the term of four years. Those who were established in the practice prior to 1901 were allowed to continue under the law of that year and may have their licenses renewed under the act of 1905, but all persons desiring to begin the practice from now on are required to present diplomas from some reputable veterinary college before they can be licensed.

152. **The Indiana state board of agriculture** is a private corporation, for the encouragement and improvement of agriculture, but the work it carries on is considered of such value to the public that it is given the use of a room in the state house for a sort of agricultural museum, and the expenses of its members in attending the meetings are paid by the state. It owns the state fair grounds and holds the state fair, to encourage which the grounds and all evi-

ces of debt secured by mortgages upon them have been exempted from taxation.

153. **A commissioner of fisheries and game** is appointed by the governor for the term of four years. His duties are to see that all the laws of the state for the protection of fish and game are obeyed, to make a study of facts and conditions and recommend such measures as he may consider expedient to preserve and increase the production of fish and game and to take measures for the introduction of new varieties of fishes, game and song birds into our streams and forests. He makes a biennial report to the governor, which is printed at public expense.

154. **The railroad commission** is composed of three members, appointed by the governor, for terms to be four years, when the rotation is established, the first appointments being for such terms that but one vacancy occurs each year. The members are required to be citizens of Indiana, at least thirty years of age, who are not engaged in any occupation or business inconsistent with the duties of the commission, and not more than two of whom are of the same political party.

Power is given the commission to supervise all freight and passenger rates, to regulate car service and the switching of cars from one railroad to another, to require the construction of sidings and connections between roads, to supervise the crossing of tracks of different lines, and to enforce reasonable charges where one company uses the tracks of another or handles another's loaded or empty cars. Express authority is given to "correct, alter, change or establish rates, charges, classifications, rules or regula-

tions," where the railroads and express companies fail to make them just, reasonable and indiscriminative.

155. **The employment of children** in factories and mines and other commercial establishments is so likely to injure the health of the rising generation that laws regulating the matter have been passed and rendered more stringent from time to time. In some cases the employment of children is prohibited entirely, and in others the hours of work and conditions of employment are prescribed. For example, no child under fourteen is permitted to be employed in any factory, mercantile establishment, mine, quarry, laundry, renovating works, bakery, or printing works, while boys under sixteen and girls under eighteen must not work more than ten hours a day nor more than sixty hours a week.

CHAPTER XIV.

Courts.

156. **The purpose of courts** is to learn the facts and apply to them the law, in cases where individuals disagree, and to put an end to the controversy by compelling all parties to submit to the decision reached. It is a simple rule of law, that one who is injured by the negligence of another, without any fault on his own part, may recover compensation from the negligent party, but the parties concerned may differ as to the application to a particular case. One who is hurt while riding on a

street car might claim that the car was crowded so that he had to stand, that it was run too fast and stopped too suddenly, that the glass in the door was too thin and broke when he was thrown against it, cutting and disfiguring his face. The company might deny all this and assert that the passenger got on the car knowing its crowded condition, that he had a seat but got up and gave it to a lady, and that he had no money to pay his fare. The questions of fact, such as the speed of the car, the strength of the glass, the suddenness of the stop and so on would have to be determined from the testimony of witnesses. Other questions would arise such as the following. Can a person get damages for injuries received while stealing a ride? Is it his own fault if he gets on a crowded car or voluntarily gives up his seat, and gets hurt because he was standing? If he does get damages, will it be the amount of his doctor bill and pay for the time he lost, or must something be added on account of the pain he suffered and for having the beauty of his countenance spoiled? These are clearly questions of law to be settled by an examination of statutes and decisions of courts.

157. **The jury system**, protected by the constitution of the United States and the several states, provides for a body of men, usually twelve in number, who hear the witnesses face to face and decide what the evidence proves, while the trial is presided over by a judge who determines what evidence shall be received and instructs the jury as to the law of the case. Jury trials may

be had in all our courts except the supreme and appellate.

158. **Jurisdiction.** A court is not necessarily authorized to hear and decide all kinds of cases, and most of them are limited to cases arising within a particular county or district. The extent of a court's power, whether with reference to the subject matter of the case or the territorial boundaries, is called its "jurisdiction". Before a valid judgment can be rendered, the court must also have jurisdiction over the defendant. This is obtained by issuing a written instrument to the constable or sheriff, commanding him to summons the party named to appear in court at a certain time and answer the complaint for the money judgment, foreclosure, divorce or whatever the complaint asks for. When the defendant lives outside of the state a notice published in the newspaper takes the place of the summons.

159. **Executive Officer.** Every court has an officer whose duty it is to preserve order in the court room and to execute the orders of the court, such as summoning or arresting the defendant, subpoenaing witnesses, and if necessary selling the property of persons against whom a judgment has been rendered for the purpose of paying it. In justices' courts, these duties are performed by the constables, in city courts, by the marshal or policemen and in all other courts by the sheriff.

160. **Justices of the peace** hold the lowest courts of our system. The constitution provides for the election of such officers by the voters of each township, but the duties are fixed by statute. A township is entitled to

one justice and the board of county commissioners may allow two and one additional for each incorporated town or city. Each justice must keep a record of the business of his court in a substantially bound book.

161. **Jurisdiction.** A justice has jurisdiction to try and determine all suits founded on contracts, or for damages for negligent or intentional injury to one's person or property, where the defendant resides in his township and the amount asked for does not exceed two hundred dollars. But causes for slander, malicious prosecution, breach of promise to marry, foreclosure of mortgages, or to enforce liens upon land or any suit where the title to land comes in question, cannot be tried in a justice's court however small the amount in dispute may be. Suits by the owners of real property to recover possession from a tenant may be tried by any justice of the county in which the land is situated. The jurisdiction in criminal matters extends no farther than the right to assess a fine of not more than twenty-five dollars for a misdemeanor which may be punished by fine alone.

162. **A criminal and a juvenile court** exist in Marion county, the great city of Indianapolis furnishing plenty of business for them both, and the Marion circuit court is fully occupied with other matters. The criminal court has general jurisdiction of all kinds of criminal actions and the juvenile court of all cases to determine who shall have custody of children and where children are accused of criminal offenses.

163. **Circuit Courts.** The constitution provides that

the state shall be divided into judicial circuits and a judge elected for each circuit by the voters thereof, and that he shall reside within the circuit and hold his office for a term of six years. At present there are sixty circuits, supposed to be designated by consecutive numbers, but the fortieth and fifty-ninth have been abolished and the two created in 1905 are both numbered sixty-one. Some of these comprise a single county and others two or more, but the judge holds court in each of the counties of his district, usually four times a year, the length of the term depending upon the number of counties in the district.

164. **The jurisdiction** of the circuit court extends to all matters civil, criminal and relating to the probating of wills and the settlement of estates, and is co-extensive with the county. It is the court of general jurisdiction in which all actions, excepting for a few trifling misdemeanors and special proceedings such as that for surety of the peace, may be commenced. Cases tried in city and justices' courts may also be tried in the circuit court on appeal, the witnesses being again heard and the case tried on the papers filed below.

165. **Superior courts** having the same jurisdiction as the circuit courts in civil actions, but without jurisdiction over criminal or probate matters, have been created in the counties where there is too much work for the circuit court alone. Marion county has such a court with three judges, Allen, Tippecanoe, Vanderburg and Madison, one each, of one judge; and there are two superior court circuits with one judge each, the first

comprising Lake, Porter and LaPorte counties and the other Grant and Howard. These courts are created by statute and might be abolished at any time by an act of the General Assembly. The judges are elected for four-year terms.

166. **The supreme court** is created by the constitution, though in very general terms, and the statutory provisions concerning it are numerous. It is composed of five judges, elected by the voters of the entire state for a term of six years. It is not a court of original jurisdiction, but receives all of its cases upon appeal from some inferior court. It does not try cases but reviews the record made in the lower court and reads the briefs of the attorneys on both sides. If the judge before whom the case was tried has made any mistakes as to the law, likely to injure the party appealing, they are pointed out and corrected, or if necessary the case is sent back to be tried again in the court from which it came. If the record shows no such error, the decision of the lower court is affirmed.

A copy of the record of all the proceedings in the lower court, called the "transcript," is made out by the clerk and sent to the clerk of the supreme court and from it the case is decided above.

167. **The appellate court** is of statutory origin, and exists for the purpose of relieving the supreme court of part of its work. There are six judges elected for terms of four years. The state is divided into two districts, the counties of the southern portion forming the first and those of the northern portion the second, and

cases from either of these districts are considered only by the division composed of the three judges elected from the other district. By this arrangement more business can be disposed of than if all the judges sat together and heard every case.

168. **The jurisdiction** of the supreme and appellate courts extends to appeals from all circuit, superior and criminal courts of the state in all kinds of cases except civil actions in which the controversy was over a less sum than fifty dollars, and even in cases of so little importance as that, as well as cases of greater magnitude. If there is any question of the validity or meaning of a statute, or the validity of a franchise or ordinance of a town or city or any question under the constitution of the United States or of this state, an appeal lies directly to the supreme court. Prosecutions for felony, election contests, contests of wills, actions for injunction, applications for a receiver, and a few other matters, may also be taken directly to that court by the party defeated below.

169. **Transfer of Cases.** All other appeals are first considered by one of the divisions of the appellate court and a decision rendered, unless at least two of the judges agree that a proper decision of the case would conflict with some former ruling of the supreme court, in which event the case is transferred to that court. When a decision has been rendered and the losing party thinks that it conflicts with a ruling precedent of the supreme court, he may petition the division for a rehearing and if that is refused, petition the supreme court for a transfer of the case. Lastly, in any case de-

cided by either division in which the sum in controversy is more than six thousand dollars exclusive of costs, the losing party may appeal to the supreme court.

170. **A written opinion**, prepared by one of the judges and approved by a majority of the whole court, setting forth the reasons for the particular decision reached, is required to be rendered in nearly every case decided by the supreme court or either division of the appellate court. These written opinions, each one being prefaced by a synopsis of the points it decides, make up the two hundred volumes of "Blackford," "Indiana" and "Indiana Appellate" Reports.

171. **The officers** of the supreme and appellate courts are a clerk and reporter, who are elected by the voters of the state every four years. The clerk has the care of all transcripts, briefs, written opinions, and all other papers and records of either court. The reporter collects all the opinions of the courts, and when enough have been filed by the judges of either to make a volume of seven hundred pages, has them printed and bound. There is also a sheriff appointed by the supreme judges, who acts for both courts.

172. **Authority of Decisions.** A decision of the supreme court, or that of the appellate court if the case is not transferred to the supreme court, settles the points of law decided for that particular case and for all cases like it which may afterward be tried in any lower court of the state, or appealed to the higher courts.

173. **A grave responsibility** rests upon the supreme court when a case arises in which to apply a statute